

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
August 27, 2013

In the Matter of A. BOYDSTON, Minor.

No. 314715
Wayne Circuit Court
Family Division
LC No. 95-331731-NA

Before: MURPHY, C.J., and MARKEY and RIORDAN, JJ.

PER CURIAM.

Respondent appeals as of right an order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(b)(i) (child suffered physical injury caused by the parent's act), (b)(ii) (child suffered physical injury and parent failed, despite an opportunity, to prevent the injury), (g) (failure to provide proper care or custody and no reasonable expectation that parent will be able to do so within a reasonable time), (i) (previous termination of parental rights to child's sibling due to serious and chronic neglect with prior unsuccessful rehabilitation efforts), and (j) (reasonable likelihood of harm to the child if returned to the parent). We affirm.

Respondent has a long protective services history. In 1995, the court took jurisdiction over respondent's older children because of her drug addiction. Respondent participated in services for over two years but failed to resolve that issue, resulting in termination of her parental rights to five children in August 1998. In 1999, respondent's parental rights were terminated to another son born in February 1998 because she failed to comply with her treatment plan, failed to visit the child, and offered no plan for him. Respondent had three more children from 1999 through 2009 who tested positive at birth for cocaine. The court terminated respondent's parental rights to those children shortly after their birth.

In November 2012, the court, shortly after the birth of the child at issue, authorized an initial petition seeking termination of respondent's parental rights to the child. Subsequently, following a hearing, the trial court entered an order terminating respondent's parental rights. Respondent now appeals as of right.

If a trial court finds that a single statutory ground for termination has been established by clear and convincing evidence and that it has been proven by a preponderance of the evidence that termination of parental rights is in the best interests of a child, the court is mandated to terminate a respondent's parental rights to that child. MCL 712A.19b(3) and (5); *In re Ellis*, 294 Mich App 30, 32; 817 NW2d 111 (2011); *In re Moss Minors*, __ Mich App __; __ NW2d __, issued May 9, 2013 (Docket No. 311610), slip op at 3. "This Court reviews for clear error the

trial court's ruling that a statutory ground for termination has been established and its ruling that termination is in the children's best interests." *In re Hudson*, 294 Mich App 261, 264; 817 NW2d 115 (2011); see also MCR 3.977(K). "A finding is clearly erroneous if, although there is evidence to support it, we are left with a definite and firm conviction that a mistake has been made." *In re HRC*, 286 Mich App 444, 459; 781 NW2d 105 (2009). In applying the clear error standard in parental termination cases, "regard is to be given to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it." *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

Respondent contends that the trial court erred in terminating her parental rights, given the lack of clear and convincing evidence supporting the grounds for termination. We disagree. The evidence established that respondent voluntarily used drugs while pregnant with the child. The child tested positive for cocaine, methadone, and morphine at birth. As a result, the child went through withdrawal, had increased muscle tone, and remained in the hospital for a lengthy period of time after birth. Respondent had recently become a heroin addict, and she had never completed any treatment program for her longstanding cocaine addiction. Respondent continued to use drugs despite the fact that her cocaine addiction resulted in the termination of her parental rights to her nine other children. Respondent's recent action in using drugs while pregnant and her failure to seek and obtain adequate prenatal care reflected a complete disregard for the well-being of her child. This type of behavior, unfortunately, was consistent with respondent's history.

At the time of the termination hearing, respondent had just recently been involved in an outpatient program to address her heroin addiction, which she started the day before the child's birth. However, respondent had often participated in substance abuse programs over the years to address her long-term drug problem, but she never completed nor benefited from them. Respondent's history of failing to resolve her drug problems despite the many services offered to her and the repeated terminations of her parental rights indicates that she is not inclined to do so. Moreover, respondent had neither a source of income nor her own housing. Even if we were to assume that the trial court clearly erred in ordering termination under MCL 712A.19b(3)(b)(i) and (ii) as argued by respondent and conceded by petitioner, there was an abundance of evidence supporting termination under MCL 712A.19b(3)(g), (i), and (j).

Further, the trial court did not clearly err in finding that termination was in the child's best interests. The court cited the fact that respondent had prior terminations due to her substance abuse and that she had failed to rectify the issue in the past 15 years. The court further noted that respondent had recently become addicted to heroin in addition to her longstanding cocaine addiction and that she harmed the child by using cocaine shortly before birth. The trial court's decision was fully supported by the record evidence and was not clearly erroneous.

Affirmed.

/s/ William B. Murphy
/s/ Jane E. Markey
/s/ Michael J. Riordan